

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 773 Session of 2019

INTRODUCED BY KILLION, ARGALL, BLAKE, BREWSTER, COSTA, FOLMER, KEARNEY, MARTIN, MASTRIANO, MENSCH, PHILLIPS-HILL, SANTARSIERO, TOMLINSON, YAW, COLLETT, BARTOLOTTA AND DINNIMAN, AUGUST 28, 2019

SENATOR K. WARD, TRANSPORTATION, AS AMENDED, NOVEMBER 21, 2019

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in general provisions, further providing for
3 definitions; in licensing of drivers, further providing for
4 ignition interlock limited license; in driving after imbibing
5 alcohol or utilizing drugs, further providing for driving <--
6 under influence of alcohol or controlled substance, for
7 grading, for penalties, for ignition interlock and for
8 mandatory sentencing; and providing for a study of driving
9 under the influence courts.

10 This act may be referred to as Deana's Law.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 102 of Title 75 of the Pennsylvania
14 Consolidated Statutes is amended by adding a definition to read:

15 § 102. Definitions.

16 Subject to additional definitions contained in subsequent
17 provisions of this title which are applicable to specific
18 provisions of this title, the following words and phrases when
19 used in this title shall have, unless the context clearly
20 indicates otherwise, the meanings given to them in this section:

1 * * *

2 "Continuous alcohol monitoring device" or "CAM device." A
3 monitoring device or instrument that:

4 (1) is attached to the person;

5 (2) is designed to automatically test the alcohol
6 content in a person by contact with the skin of the person at
7 least once per one-half hour regardless of the location on
8 the person;

9 (3) detects the presence of alcohol; and

10 (4) detects an attempt to tamper with, obstruct or
11 remove the device or instrument.

12 * * *

13 Section 2. Section 1556(b)(2) of Title 75 is amended to
14 read:

15 § 1556. Ignition interlock limited license.

16 * * *

17 (b) Petition.--

18 * * *

19 (2) The petition shall also include proof of financial
20 responsibility covering each vehicle the applicant requests
21 to be permitted to operate. The department shall promulgate
22 regulations to require additional information as well as
23 additional evidence to verify the information contained in
24 the petition. Upon approval of the petition, the ignition
25 interlock device must be installed in any motor vehicle to be
26 operated by the individual, and proof of installation must be
27 provided by the ignition interlock device vendor.

28 * * *

29 ~~Section 3. Section 3802 of Title 75 is amended by adding a~~ <--
30 ~~subsection to read:~~

1 ~~§ 3802. Driving under influence of alcohol or controlled~~
2 ~~substance.~~

3 ~~* * *~~

4 ~~(h) Vehicle impoundment. Whenever an individual has been~~
5 ~~arrested for a violation of this section and the individual was~~
6 ~~convicted of two or more prior offenses under this section, the~~
7 ~~arresting officer shall impound the vehicle that the individual~~
8 ~~was operating at the time of arrest in accordance with the~~
9 ~~following:~~

10 ~~(1) A vehicle shall be impounded for a period of 12~~
11 ~~hours after the time of arrest or until the individual meets~~
12 ~~the conditions for release under paragraph (3).~~

13 ~~(2) A vehicle may be released to an individual other~~
14 ~~than the individual under arrest prior to the end of the~~
15 ~~impoundment period only if:~~

16 ~~(i) the vehicle is not owned or leased by the~~
17 ~~individual under arrest and the person who owns or leases~~
18 ~~the vehicle claims the vehicle and meets the conditions~~
19 ~~for release under paragraph (3); or~~

20 ~~(ii) the vehicle is owned or leased by the~~
21 ~~individual under arrest, the individual under arrest~~
22 ~~gives permission to another individual to operate the~~
23 ~~vehicle and the conditions for release under paragraph~~
24 ~~(3) are met.~~

25 ~~(3) A vehicle shall not be released unless the~~
26 ~~individual claiming the vehicle:~~

27 ~~(i) presents a valid driver's license, proof of~~
28 ~~ownership or lawful authority to operate the motor~~
29 ~~vehicle and proof of valid motor vehicle insurance for~~
30 ~~that vehicle;~~

1 ~~(ii) is able to operate the vehicle in a safe manner~~
2 ~~and would not be in violation of this title; and~~
3 ~~(iii) meets any other conditions for release~~
4 ~~established by the law enforcement agency impounding the~~
5 ~~vehicle.~~

6 ~~(4) A law enforcement agency impounding a vehicle is~~
7 ~~authorized to charge a reasonable fee for towing and storage~~
8 ~~of the vehicle and may retain custody of the vehicle until~~
9 ~~the fee is paid.~~

10 Section 4 3. Section 3803(b) (3) and (4.1) of Title 75, <--
11 ~~amended October 24, 2018 (P.L.925, No.153),~~ are amended and the
12 subsection is amended by adding a paragraph to read:

13 § 3803. Grading.

14 * * *

15 (b) Other offenses.--

16 * * *

17 (3) An individual who violates section 3802(a) (1) where
18 there was an accident resulting in bodily injury, serious
19 bodily injury or death of any person or in damage to a
20 vehicle or other property, or who violates section [3802(b),
21 (e)] 3802(e) or (f) and who has two prior offenses commits a
22 misdemeanor of the first degree.

23 (3.1) An individual who violates section 3802(b) and who
24 has two prior offenses commits a felony of the third degree.

25 * * *

26 (4.1) An individual who violates section 3802(a) (1)
27 where the individual refused testing of breath or chemical
28 testing pursuant to a valid search warrant, court order or
29 any other basis permissible by the Constitution of the United
30 States and the Constitution of Pennsylvania, or who violates

1 section 3802(c) or (d) [and who] commits:

2 (i) A felony of the third degree if the individual
3 has two [or more] prior offenses [commits a felony of the
4 third degree].

5 (ii) A felony of the second degree if the individual
6 has three prior offenses.

7 (iii) A felony of the first degree if the individual
8 has four or more prior offenses.

9 * * *

10 Section 5 4. Section 3804 of Title 75 is amended by adding a <--
11 subsection to read:

12 § 3804. Penalties.

13 * * *

14 (c.2) Consecutive sentence.--A sentence imposed upon a
15 person under this section for a third or subsequent offense
16 shall be served consecutively to any other sentence the person
17 is serving and to any other sentence being then imposed by the
18 court.

19 * * *

20 Section 6 5. Section 3805(c) and (h.2) of Title 75 are <--
21 amended to read:

22 § 3805. Ignition interlock.

23 * * *

24 (c) Issuance of unrestricted license.--One year from the
25 date of issuance of an ignition interlock restricted license
26 under this section, or two years from the date of issuance of an
27 ignition interlock restricted license under this section in the
28 case of a person convicted of a third or subsequent offense
29 under section 3802, if otherwise eligible, a person may be
30 issued a replacement license under section 1951(d) that does not

1 contain the ignition interlock system restriction. The
2 department shall not issue an unrestricted license until a
3 person has presented all of the following:

4 (1) Proof that the person has completed the ignition
5 interlock restricted license period under this section.

6 (2) Certification by the vendor that provided the
7 ignition interlock device that the person has complied with
8 subsection (h.2).

9 * * *

10 (h.2) Declaration of compliance.--Restrictions imposed under
11 section 1556 (relating to ignition interlock limited license)
12 shall remain in effect until the department receives a
13 declaration from the person's ignition interlock device vendor,
14 in a form provided or approved by the department, certifying
15 that the following incidents have not occurred in the two
16 consecutive months prior to the date entered on the certificate,
17 and for the purposes of a suspension imposed under section
18 3807(d) (2), the person's ignition interlock device vendor shall
19 certify the following incidents have not occurred in the prior
20 30 days entered on the certificate:

21 (1) An attempt to start the vehicle with a breath
22 alcohol concentration of 0.08% or more, not followed within
23 10 minutes by a subsequent attempt with a breath alcohol
24 concentration lower than 0.08%.

25 (2) Failure to take or pass any required retest.

26 (3) Failure of the person to appear at the ignition
27 interlock system vendor when required for maintenance,
28 repair, calibration, monitoring, inspection or replacement of
29 the device such that the ignition interlock system no longer
30 functions as required under subsection (h).

1 If a violation under paragraph (1), (2) or (3) occurs, the
2 vendor shall notify the department as to the violation on a form
3 designated by the department, and the department shall notify
4 the person of the violation and that ignition interlock device
5 usage shall continue until no violations have occurred within a
6 60-day period.

7 * * *

8 Section 7 6. Section 3815(b) (2) of Title 75 is amended and <--
9 the section is amended by adding a subsection to read:

10 § 3815. Mandatory sentencing.

11 * * *

12 (b) Parole.--

13 * * *

14 (2) The following shall be conditions of parole:

15 (i) If the offender is not determined under the
16 procedures set forth in section 3814 to be addicted to
17 alcohol or another substance, the offender must refrain
18 from:

19 (A) the use of illegal controlled substances;

20 and

21 (B) the abuse of prescription drugs, over-the-
22 counter drugs or any other substances.

23 (ii) If the offender is determined under the
24 procedures set forth in section 3814 to be addicted to
25 alcohol or another substance, the offender must do all of
26 the following:

27 (A) Refrain from:

28 (I) the use of alcohol or illegal controlled
29 substances; and

30 (II) the abuse of prescription drugs, over-

1 the-counter drugs or any other substances.

2 (B) Participate in and cooperate with drug and
3 alcohol addiction treatment under subsection (c).

4 (iii) An offender serving a sentence for a violation
5 of section 3802 who has two or more prior offenses shall
6 be fitted with a continuous alcohol monitoring device for
7 one year or for the duration of the period of parole,
8 whichever is less. Tampering with or obstructing the CAM
9 device shall constitute noncompliance with the conditions
10 of parole. The payment of costs associated with the CAM
11 device shall be determined in accordance with section
12 1557(b) and (c) (relating to continuous alcohol
13 monitoring device). If on more than two occasions the CAM
14 device detects that an offender's alcohol concentration
15 is greater than 0.08%, the court may order the offender
16 to participate in and cooperate with drug and alcohol
17 addiction treatment.

18 (b.1) Probation.--As a condition of a probation order, the
19 court shall require an offender who has two or more prior
20 offenses to be fitted with a continuous alcohol monitoring
21 device for one year or for the duration of the period of
22 probation, whichever is less. Tampering with or obstructing the
23 CAM device shall constitute noncompliance with the conditions of
24 probation. The payment of costs associated with the CAM device
25 shall be determined in accordance with section 1557(b) and (c).
26 If on more than two occasions the CAM device detects that an
27 offender's alcohol concentration is greater than 0.08%, the
28 court ~~may~~ SHALL order the offender to participate in and
29 cooperate with drug and alcohol addiction treatment.

<--

30 * * *

1 Section 7. The Department of Transportation, in <--
2 consultation with the Pennsylvania State Police AND THE <--
3 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS, shall evaluate the
4 effectiveness of driving under the influence courts in this
5 Commonwealth and submit a report with findings and
6 recommendations to the Transportation Committee of the Senate
7 and the Transportation Committee of the House of Representatives
8 within six months of the effective date of this section.

9 Section 8. This act shall take effect in 120 days. <--